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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/700,040 | 11/02/2003 | Birinder R. Boveja | | 3426 |

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| EXAMINER | |
|---|---|
| LEE, YUN HAENG NMN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3766 | |

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/700,040 | BOVEJA, BIRINDER R. | |
| | Examiner | Art Unit | |
| | Yun H. Lee | 3766 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *17 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,5-7,9,10,13,17,18,20-22 and 31-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,5-7,9,10,13,17,18,20-22 and 31-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 5, 6, 18, 31-33 and 41-43 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Terry, Jr. et al. (US Pat. No. 6,622,041).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 7, 13, 20, 21 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry, Jr. et al. (US Pat. No. 6,622,041) in view of Pless et al. (US Pat. Appl. Pub. No. 20030144711). Terry, Jr. et al. does not expressly disclose that the programmer means can be remotely operated over a wide area network such as the internet. Pless et al. teaches of enabling a programmer to access a wide area network such as the internet to facilitate improved patient care by eliminating unnecessary

geographic limitations on device interrogation and programming (paragraph 30 lines 1-5). Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to enable the programmer of Terry, Jr. et al. to access a wide area network such as the internet to facilitate improved patient care by eliminating unnecessary geographic limitations on device interrogation and programming.

5. Claims 9 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry, Jr. et al. (US Pat. No. 6,622,041) in view of Mann (US Pat. No. 6,275,737). Terry, Jr. et al. does not expressly disclose a recharging coil for recharging an implantable pulse generator using an external power source. Mann teaches of using a recharging coil (65) for recharging an implantable medical device (60) using an external power source (35). Mann further teaches that this is advantageous since it provides a non-invasive method of providing power for an implantable medical device (col. 1). Thus, it would have been obvious to one of ordinary skill in the art to modify the invention of Terry, Jr. et al. to include a recharging coil for recharging the implantable pulse generator using an external power source.

6. Claims 10, 17, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry, Jr et al. (US Pat. No. 6,622,041) in view of Pless et al. (US Pat. Appl. Pub. No. 20030144711) and further in view of Mann (US Pat. No. 6,275,737). Regarding claim 10, Terry, Jr. et al. and Pless et al. collectively do not expressly teach of inductively coupled means for bi-direction data exchange. Pless et al. discloses using inductively coupled means (30, 65) for bi-direction data exchange. This type of

inductively-coupled bi-directional data exchange is extremely old and well-known in the art and, since Applicant does not give any criticality to inductive data exchange over any other data exchange method, it would have been obvious to one of ordinary skill in the art to use inductively coupled means for bi-direction data exchange in the invention of Terry, Jr. et al.

Regarding claim 17, see the above discussion of claims 9 and 22.

Regarding claims 38 and 39, the limitations are clearly met by Terry, Jr. et al.

7. Claims 34, 35 and 44-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry, Jr. et al. (US Pat. No. 6,622,041) in view of Geddes et al. (US Pat. No. 5,916,239).

Regarding claims 34 and 44, Terry, Jr. et al. does not expressly disclose providing rate control for atrial fibrillation. Geddes et al. teaches of providing rate control for atrial fibrillation to control the number of excitations that reach the ventricles during atrial fibrillation (col. 3 lines 23-26). Thus, it would have been obvious to one of ordinary skill in the art to provide rate control for atrial fibrillation using the invention of Terry, Jr. et al. in order to control the number of excitations that reach the ventricles during atrial fibrillation.

Regarding claims 35 and 45, Terry, Jr. et al. does not expressly disclose providing rate control for inappropriate sinus tachycardia. Geddes et al. teaches that it is well known

to physiologists that simulation of the right vagus nerve predominately slows the S-A node rate and thereby reduces heart rate (col. 1 lines 49-52). Thus, it would have been obvious to one of ordinary skill in the art to provide rate control for inappropriate sinus tachycardia using the invention of Terry, Jr. et al. since stimulation of the right vagus nerve can reduce heart rate.

Regarding claims 46-48, see the above discussions.

8. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry, Jr. et al. (US Pat. No. 6,622,041) in view of Pless et al. (US Pat. Appl. Pub. No. 20030144711), further in view of Mann (US Pat. No. 6,275,737) and further in view of Geddes et al. (US Pat. No. 5,916,239). See the above discussions.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yun H. Lee whose telephone number is (571) 272-2847. The examiner can normally be reached on M-Th 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert Pezzuto
Supervisory Patent Examiner
Art Unit 3766

yhl